

TOQUERVILLE PLANNING COMMISSION MINUTES

6:30 P.M. Work Meeting, 7:00 P.M. Regular Meeting Wednesday, June 17, 2015

Held at 212 N. Toquerville Blvd, Toquerville Utah

ATTENDANCE: Planning Commission Members: Chair Keen Ellsworth, Alex Chamberlain, David Hawkins, and Jerome Gourley. Zoning/Staff Administrator: Mike Vercimak, City Recorder: Renee Garner, ACSSD Representative Blair Gubler, Others: Peter VanValkenburg, Jessica Russo, John Manning, Jim Soria, Naomi Wright, Tom Harmon, and Leif Bjarnson.

6:30 pm – WORK MEETING: Chair Keen Ellsworth called the meeting to order.

1. Review of items on the agenda and of assignments given to Planning Commission (PC), from City Council (council).

a) Chair informed us that there were no assignments from council.

b) Chair opened discussion on staff's recommendations for approval on a conditional use permit of a bed and breakfast (BnB) business, "Zion View Bed and Breakfast, LLC" for Jessica Russo at 245 W Sunset Avenue, Parcel #T-109.

Mike V said when applicant came to Staff meeting we thought the property was in Agriculture, single dwelling (A-1), but it's in Multiple Use, 20 acres (MU-20). Mike's recommendations were based on A-1 regulations. Mike clarified that Title 10 Land Use code does not give BnBs permitted or conditional use status in MU-20. Chair read 10-11A-1 through 3 outlining the purpose, permitted uses, and conditional uses of MU-20 zoning. Mike noted that BnBs are not mentioned, and that in 10-2 definitions BnBs do not qualify as a home occupation, so we can't use that reference.

PC focused on 10-11A-3 conditional uses: "... private camp or resort, including accessory or supporting buildings or dwelling complexes which are owned or managed by the recreational facility and under unified control". Alex looked up the dictionary definition of a resort. Keen found numerous BnBs on line that had "resort" in their title, but noted that names are not always accurate as description of use.

Mike V thought the best solution would be a zone change. It would eliminate any gray area. He was concerned we would set a precedent. He gave a scenario of a future commercial enterprise using this ruling against us. He explained that the lot was non-conforming to its current zone since it was not 20 acres and would better suit A-1 or residential, single family, 20,000 square feet (R-1-20). Asked if BnBs must be contained in the main residents, Mike V stated that the code was silent on that. He mentioned that a zone change requires a hearing at PC and council levels. Keen asked if MU-20 was intended to be less restrictive. Mike answered not necessarily.

Keen read from Chapter 3 definitions 1-3-1, that "All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the mayor and city council may be fully carried out." He weighed that against the discovery that MU-20 did not have the language all other zones possess as in 10-10A-3 R-1 conditional uses, giving the caveat of "other uses similar to the permitted uses above and judged by the planning commission to be in harmony with the character and intent of this zone." No decision was reached.

2. Chair reviewed information on the home occupation/ conditional use permits of June, listing permits to be reviewed and stating that all were current and in order: 1) Leif Bjarnson of Bjarnson Construction, Inc, home occupation, and 2) Todd Young of Lannister construction, LLC, home occupation.

Chair dismissed the work meeting and called for a break until 7:00 pm.

7:00 pm – REGULAR MEETING: Chair Keen Ellsworth called the meeting to order. 1. The pledge was led by Keen Ellsworth.

2. Chair asked for any disclosures or declarations of conflict with agenda items. None were given.

A. REVIEW OF MINUTES: Minutes of the May 20, 2015, PC meeting were reviewed and discussed. Chair called for a motion.

Motion by David Hawkins to approve the minutes was second by Alex Chamberlain. Chair stated minutes were approved unanimously by Alex Chamberlain, David Hawkins, Keen Ellsworth, and Jerome Gourley.

B. PUBLIC HEARING: Chair declared the Public Hearing open for public comment for application for conditional use permit of a bed and breakfast business, "Zion View Bed and Breakfast, LLC": Jessica Russo at 245 W Sunset Avenue, Parcel #T-109. Chair explained that comments would be taken but questions would not be addressed during the hearing.

1. Jessica Russo stated she would not like to do a zone change. Her property looks out on raw land and she hoped it would stay that way. She added later that she had research businesses in Toquerville and will be contracting with them and others. This was her way of contributing to the economic development of the community.

2. Blair Gubler explained that the sewer district had to definitions of BnBs: one in the home and one in accessory buildings which would be designated an apartment or rooming house. He asked the city to inform him on what type this BnB was if PC recommended it for approval to council.

3. Pete VanValkenburg said he and his family owned the approximately 60 acres beside and to the north of Russo's property that is all designated MU-20. He asked if the city would require Jessica Russo to improve the road that fronts her property. He noted that Jim Landers, who did a zone change in order to build on his property across the street was required to put in half the road to that zone change and potential development.

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4. Jim Soria encouraged PC to approve the BnB permit. He stated the Jessica would maintain a quality establishment that would provide a positive face for the community as well as bring more dollars in taxes.
5. Leif Bjarnson remarked that the city had a stigma against detached buildings, but he encouraged approval for the BnB.
6. Tom Harmon felt he'd talked Jessica into doing a BnB because of all the positive things his own had brought to him and to the city. He also asked PC to approve for recommendation to council.

C. PUBLIC FORUM: Comments & requests for future agenda items. Chair asked for comments, none were given.

D. ACTION ITEM

1. Item: Review and possible recommendation to council for approval on application for conditional use permit of a bed and breakfast business, "Zion View Bed and Breakfast, LLC": Jessica Russo at 245 W Sunset Avenue, Parcel #T-109. Discussion continued as PC studied the code for the best avenue to passage. Chair gave a short summary of the city's allowance of BnBs but not vacation rentals due to difficulty in regulating those. He told us that PC must base their decision on code. They had no gray area. So they must determine if BnBs are allowed in MU-20. Chair read aloud the conditional uses for MU-20 in 10-11A-3, and then read through Staff recommendations noting that Mike thought it was A-1 but acknowledging that the same questions would be asked for MU-20. Mike V asked PC to consider whether the road improvements are required and if so, would PC like to add that to the conditions. Jerome expressed concern and felt that this decision should have a legal review. PC discussed adding that to the conditions as well. Mike V remarked that recommendation #3 would cover those to concerns.

Chair called for a motion.

Motion was by David Hawkins to approve for recommendation to council the conditional use permit of a bed and breakfast business, "Zion View Bed and Breakfast, LLC": Jessica Russo at 245 W Sunset Avenue, Parcel #T-109, with Staff recommendations only as presented. Second was by Alex Chamberlain. Staff recommendations are:

1. The owner shall limit total occupancy on the dwelling to no more than 10 persons.
2. The Bed and Breakfast room shall be limited to sleeping area, bathroom area and living area, but shall not include a kitchen.
3. The applicant shall obtain all Local, State and Federal licenses and permits required and agrees to abide by all rules and regulations of each such jurisdiction.
4. The applicant must obtain and maintain a current business license with City of Toquerville and pay the required Bed Tax to State of Utah.
5. This permit shall not be enlarged, expanded or changed otherwise without express written consent of the City of Toquerville.
6. This permit shall receive an annual review by the Toquerville Planning Commission.

Chair called for a vote after which he stated the motion to approve for recommendation to council the conditional use permit of a bed and breakfast business, "Zion View Bed and Breakfast, LLC" was passed with Alex Chamberlain, David Hawkins, and Keen Ellsworth voting Aye, and Jerome Gourley voting Nay.

2. Review and possible approval of home occupation & conditional use permits for June, 2015 Chair called for a motion.

Motion was by Alex Chamberlain to approve the annual review of the June HOCUPs with all conditions continued. 1) Leif Bjarnson of Bjarnson Construction, Inc, home occupation, 2) Todd Young of Lannister construction, LLC, home occupation. Second was by Jerome Gourley. Chair: Motion to Approve the June HOCUPs passed unanimously by Alex Chamberlain, David Hawkins, Keen Ellsworth, and Jerome Gourley.

ADJOURNMENT: Meeting was adjourned by Chair Keen Ellsworth.

Minutes of the Toquerville Planning Commission meeting of June 17, 2015, will be presented for review and approval in the July meeting.

Approved: _____
Planning Commission Chair Keen Ellsworth

Date: 7/22/15

Attested: _____
Renee S. Garner, City Recorder/ Clerk

